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SUMMARY RECORD OF THE 1242nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 16 July 1993, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Hungary (CCPR/C/64/Add.7; HRI/CORE/1/Add.11) (continued)

1. Mr. Bárd, Mr. Höltzl, Mr. Lontai, Mr. Szapora and Mrs. Hevesi (Hungary) took places at the Committee table.

2. The CHAIRMAN invited the members of the Committee to continue their consideration of the third periodic report of Hungary (CCPR/C/64/Add.7), with the Hungarian delegation's replies to the Committee's oral questions on section III of the list of issues.

3. Mr. BÁRD (Hungary), replying to Mr. Ndiaye's remark to the effect that the reason why the drug problem was not mentioned in the report of Hungary might be that such a problem did not exist in the country, said that when the third periodic report had been submitted, the drug problem had in fact not been as serious as it now was. The problem had worsened in the previous few years and the Government had intensified measures to tackle it, both with regard to detection and policing measures in general, on the one hand, and in the area of education and treatment of drug addiction, on the other. Regarding criminal liability, the amendments to the Hungarian Criminal Code that had entered into force two months previously reflected a new attitude: drug traffickers were liable to extremely severe punishment, while people using drugs in small quantities received offers to undergo treatment, and if they agreed to be treated, no criminal proceedings were instituted or proceedings already under way were discontinued.

4. Miss Chanet had asked whether, as a general rule, defendants in criminal cases were left at liberty. That was in fact the case, and pre-trial detention was the exception in Hungary. Unfortunately, statistics showed that the number of persons under prosecution who were being held in detention was increasing, and currently stood at 10 to 12 per cent.

5. The independence of judges was guaranteed in several ways, the first being the financial independence of the judiciary from the executive. That independence was guaranteed by the legislation, which stipulated that the courts' budget was separate from that of the Ministry of Justice. The second guarantee of independence had to do with the system for the promotion and remuneration of judges, which were determined exclusively by law, with no derogations allowed. The third guarantee of independence was the appointment system: with the exception of the President of the Supreme Court, who was elected by Parliament, judges were appointed by the President of the Republic on the proposal of the Minister of Justice, but with the consent of the Judicial Council. A newly appointed judge was then assigned to a post by the Minister of Justice, but subsequent transfers were excluded except at the request of the judge in question. Finally, a judge ceased to perform his duties either at his own request, because he was declared incapable of doing so by his peers, or because of professional misconduct, when the Disciplinary Council recommended to the President of the Republic that the judge should be

removed from his functions. Finally, judges enjoyed immunity from prosecution and could therefore not be arrested and detained or be the subject of criminal proceedings except by authorization of the President of the Republic.

6. The CHAIRMAN invited the Hungarian delegation to reply to the questions contained in section IV of the list of issues to be taken up in connection with the consideration of the third periodic report of Hungary.

7. Mr. BÁRD (Hungary), referring to section IV (a), elaborated on the restrictions which had been lifted and those which remained with regard to the right freely to leave and return to the country (see para. 68 of the periodic report). First of all, the fundamental right to travel abroad and return to the country was proclaimed in Hungarian legislation under Law-Decree No. 25 of 1987, on travelling abroad and on passports, and in the new Act of 1989. Under the old legislation, however, that right had been subject to many restrictions. Passports had been denied to Hungarians in the following cases: prosecution for a criminal offence carrying a penalty of more than three years' imprisonment; non-served imprisonment; warrant for arrest; serious breach of the laws of Hungary during former travel abroad; former prison sentence; or coercion measures by the police. In the last three cases, the possibility had existed of issuing a passport with restricted territorial validity for one trip in exceptional cases.

8. The old legislation had also stipulated that passports could be refused in nine cases: (1) the travel abroad endangered the security of the State; (2) criminal procedure for a criminal offence subject to a penalty of more than three years' imprisonment; (3) previous conviction; (4) being under the supervision of a probation officer; (5) debt owed to the State; (6) enforcement procedure for failure to comply with support obligations; (7) enforcement procedure for failure to comply with tax obligations; (8) crossing the border illegally within the previous five years; and (9), for Hungarian citizens living abroad, expulsion or sentence for a crime committed abroad or breach of the laws of Hungary during the stay abroad. Under the old legislation, a person could be excluded from travelling abroad for five years for giving false information to the authorities issuing passports, misusing his passport or being responsible for losing his passport.

9. The new legislation contained four restrictions on the fundamental right to travel abroad and return as well as the right to possess a passport. They were listed in paragraph 66 of the report. The new Act contained an important improvement, i.e. the availability of judicial review in cases where the authorities refused to issue a passport.

10. Section IV (b) requested an explanation of how, for the purpose of denying an immigration permit to an alien, it was determined a priori that he was "unlikely to integrate into [Hungarian] society" (see para. 69 of the report). The law in question had been enacted in 1989, and the legislature's reasoning had been the following: individuals were not expected to integrate when they lacked school education, did not speak Hungarian or were unfamiliar with the country's traditions or democratic structures. The law might be open to criticism, but he pointed out that to date there had not been a single case

in which an immigration permit had been denied solely on that ground; it was usually mentioned in addition to other grounds such as inability to obtain housing and to cover living expenses.

11. Turning to section IV (c) of the list of issues, he made some additional comments on the law and practice relating to permissible interference by the secret service with the right to privacy (see para. 92 (b) of the report). The Act of 1990 listed crimes and offences for the prevention and detection of which the security services could use secret means and methods. Those were crimes against humanity, terrorist crimes, hijacking and incitement to acts against the nation or a minority. The police forces could be authorized to use such means and methods for preventing and detecting crimes carrying sentences of over five years' imprisonment. The methods in question involved collecting data through technical means, checking mail and postal deliveries and entering premises. The application had to be submitted by the head of the secret service or the chief of police, respectively. The Minister of Justice granted permission to use such methods for 30 days only, extendable for a further 30 days.

12. According to the draft laws on the police and national security, changes were to be made in the current regulations. First, the body granting permission should be a judicial organ (although the draft law on the police contained, as an alternative, permission issued by the prosecutor). Second, a special type of appeal was envisaged against the judicial decision authorizing the use of such methods, which might have practical implications for the use of evidence obtained through secret investigating methods in a subsequent criminal procedure.

13. Section IV (d) contained a request for information on the registration or any other procedure relating to the recognition of religious denominations by the authorities, and in particular for further information on the contents of Law-Decree No. 17 of 1989 regulating the functioning of religious orders (see para. 98 of the report). He explained first of all that that legislation was no longer in force and had been replaced by a new law on freedom of religion and the churches, which contained a special chapter on the registration of churches or religious groups. The registration was conducted by the county court having territorial competence, subject to certain prerequisites. The church had to be founded by at least 100 individuals and it had to have adopted its statutes and elected a number of managing and representational organs. It also had to submit a statement by the founding members stipulating that their organization had been established in order to conduct religious activities that were not contrary to the Constitution or the provisions of the law. The statutes, which had to be deposited before the application for registration, should indicate the name of the church, its headquarters and the different units composing it. It should not have the same name as another church already registered, nor be easily confused with another name. The application for registration could be rejected if those conditions were not fulfilled. The county court carried out the registration under a non-contentious procedure when all the conditions were fulfilled, within a period of 60 days from the deposit of the notification. The church became a legal person. Any independent body it might establish for religious purposes, such as a monastery, also became a legal person and was registered by the county court under the same conditions.

14. Turning to section IV (e) of the list of issues, he specified the cases in which permits concerning the activity of the press could be refused or a publication prohibited, and the status and content of the "new more liberal regulation" awaiting consideration by the Parliament at the time of the submission of the report (see para. 103 of the report). The new legislation in force was Act No. II of 1986, as amended by Act No. LXV of 1990, which proclaimed the right to express one's views and publish intellectual works in the press, provided that they did not violate the constitutional order of the Republic. Article 3 of the Act listed further constraints, which stipulated that, in exercising freedom of the press, individuals could not commit or incite others to commit criminal offences; furthermore, freedom of the press could not be exercised in violation of public morals or the personality rights of others.

15. Under the existing legislation, permission was needed for printing and publishing certain works such as teaching materials used by the military, while for other publications, such as periodicals and newspapers, the only obligation was to ensure that the publication was registered. Permission to publish and registration were refused if the publication was used to commit a criminal offence or its content involved incitement to perpetrate a criminal offence or if it infringed public morals or the personality rights of others. On complaint the court would review the decision to refuse permission. At the request of the prosecutor, the court could prohibit the publication of printed matter if the publication was being used to commit a criminal offence, involved incitement to perpetrate a criminal offence or violated public morals or the personality rights of others. In such cases the prosecutor could suspend publication pending the court's decision. .

16. The draft law also provided for the right to express and communicate one's views verbally or in writing or in any other way, and included the right to receive freely information concerning the public. It provided for the removal of the constraint referring to public morals and the prosecutor's authorization for suspending the publication. The draft law also contained provisions aimed at weakening monopolies by determining the maximum number of periodicals and newspapers one physical or legal person might own. It also provided for special rules relating to reporting on hearings, aimed at guaranteeing the observance of the principle of presumption of innocence.

17. Section IV (f) asked for a list of cases in which a press organ might be fined for violation of personal rights (see para. 92 (c) of the report). The Criminal Code specified a number of offences which might be committed via the press, such as defamation or incitement to hatred against the community. In those cases it was the individual who was primarily responsible for the criminal offence and who was sentenced, but under the general rules of criminal law, the editor might also be held responsible. Apart from liability under criminal law there was also liability under civil law: the defendant might be sued for damages in the case of violation of personality rights.

18. The draft legislation introduced a special rule according to which the press could be obliged in a civil lawsuit to pay compensation of up to 15,000 forint. The original explanation for that provision was the improper regulation of the Hungarian Civil Code of 1977 on non-material damage. To bring a lawsuit for non-material damage the plaintiff had had to

prove that the defendant's deed had caused him lifelong injury or had ruined his life in society. Under such conditions, it had been virtually impossible for those whose personality rights had been seriously violated to obtain proper compensation for non-material damage. Therefore, a specific provision had had to be included in the draft law on the press. Since, in the meantime, the Constitutional Court had declared unconstitutional the provision of the Civil Code that had been considered inadequate, that specific provision of the draft law had become unnecessary.

19. With regard to the request contained in section IV (g) of the list, he said that according to article 70 (1) and (3) of the Constitution and the provisions of the Act on the election of representatives of local authorities and mayors, foreign nationals living in Hungary had the right to vote if they had settled in Hungary (at least five years' residence) and were registered on the electoral rolls. However, only a Hungarian citizen could be elected representative or mayor.

20. Unfortunately, there were no data available on the actual participation of foreigners in the elections. The reason was that there had been several attempts to determine the voting behaviour of various social groups in a way that might have infringed their personality rights; it had therefore been decided to destroy the rolls and other relevant documents.

21. Finally, in reply to the question contained in section IV (h), he said that anyone who had been sentenced to non-suspended imprisonment for an intentional crime and was regarded by the court as unworthy of participating in public affairs might be barred from participation. Thus the prohibition against participating in the conduct of public affairs was a supplementary punishment, which the court was free to impose or not to impose. Naturally that measure covered both the right to vote and the right to be elected.

22. The CHAIRMAN thanked the Hungarian delegation and invited comments by members of the Committee.

23. Mr. HERNDL said he would like to return to the implementation of four articles of the Covenant in Hungary. First, with regard to article 13, paragraph 73 of the report stated that an alien whose stay in Hungary was undesirable would be expelled from the territory of the Republic of Hungary. He would like to know what was meant by the term "undesirable", in other words what the criteria were for considering an alien undesirable. Furthermore, the reference to a provision of the Criminal Code implied that the expulsion measure was part of a criminal procedure. Was that the case, or was there another procedure for expelling undesirable aliens from the territory?

24. Second, regarding the implementation of article 20 of the Covenant, the information contained in the previous reports submitted by Hungary had not been sufficiently detailed, especially on questions relating to procedure and to sanctions. Moreover, paragraph 105 of the third periodic report (CCPR/C/64/Add.7) said that there had been no new developments concerning the implementation of article 20 (1) of the Covenant. The following paragraph, however, spoke of a new offence, "incitement against

the community". He would be grateful if the Hungarian delegation would provide more details on the legislative changes, particularly with regard to criminal law, that had recently taken place in that area.

25. Third, concerning article 25 of the Covenant, he noted that paragraph 292 of the core document on Hungary (HRI/CORE/1/Add.11) stated that all Hungarian citizens enjoyed a fundamental human right to elect their local government. That was a far-reaching and particularly progressive provision. In addition, paragraph 124 of the periodic report (CCPR/C/64/Add.7) stated that non-nationals permanently settled in Hungary were also entitled to vote in local self-government elections. Admittedly, the following paragraph mentioned some restrictions relating to election to public office, and the Constitution stipulated very clearly that non-nationals were entitled to vote in local elections but could not be candidates in them. On the whole, however, he welcomed the clearly constructive nature of the measures adopted in Hungary.

26. Finally, concerning article 26 of the Covenant, the report (CCPR/C/64/Add.7) merely indicated in paragraph 130 that the implementation of article 26 was guaranteed by article 57 (1) of the Hungarian Constitution. It was true that the wording of article 57 (1) was largely based on article 26 of the Covenant, but it would be interesting to learn more, in a future report, on how the right to equality before the law was applied. In particular, it would be useful to know whether the exercise of that right was guaranteed in practice by legislative provisions and not only by the Constitution.

27. Mr. AGUILAR URBINA said he also would like to return to the implementation of article 20 of the Covenant, especially as the media had reported several cases of hostility towards foreigners in Hungary. In particular, it appeared that a newspaper had been accused of incitement to anti-Semitism, and that the publishers had been brought before the courts. He would like to know the outcome of that case. In addition, the Vice-President of the Republic had apparently been criticized for making anti-Semitic remarks. What exactly had happened?

28. Concerning article 25 of the Covenant, in his understanding a person with a criminal conviction might lose his civic rights. He would like to know whether there were precise rules for adopting such a decision, and if so what those rules were, or whether such matters were left to the judge's discretion.

29. With regard to article 22 of the Covenant, he asked whether the regular members of the armed forces and the police were authorized to participate in elections. Furthermore, were there other categories of civil servant who could not exercise high official functions in party organs in the place where they were assigned? Could judges, in particular, engage in political activities in Hungary?

30. Paragraph 112 of the report (CCPR/C/64/Add.7) said that it was against the law for political parties to operate at workplaces. Did that provision apply only to parties, or did it also apply to individuals, who might thus be prevented from expressing their political views in the workplace?

31. Concerning the operation and financing of political parties, which organs were empowered to authorize the operation of political parties and monitor their financing? Was it possible to lodge an appeal against the decisions of those organs, and, if so, with which authorities?

32. Act No. XXIX of 1991 distinguished between the "most representative" trade unions and other trade unions. What criteria were used to decide whether one trade union was more representative than another, and what advantages did the former enjoy as a result? He would also like information on the provisions of Act No. VII of 1989, which prohibited strikes in certain circumstances.

33. Finally, he would like clarifications on the meaning of article 5 (4) of the new Labour Code, in particular what was meant by the expression "group of employees". To the extent that a group of employees appeared to enjoy privileges, how were other workers protected against any form of discrimination?

34. Mr. WENNERGREN said that his questions would focus on the exercise of the freedoms covered in article 19 of the Covenant. Paragraph 101 of the periodic report (CCPR/C/64/Add.7) indicated that the implementation of article 19 was guaranteed by article 61 of the Constitution. He would like further information on the protection of freedom of information in Hungary and the current status of the legislative amendments mentioned in the report. In particular, had the draft law on data and information dissemination been adopted? Generally speaking, what was the situation in that area in Hungary?

35. Mr. PRADO VALLEJO noted from paragraph 75 of the periodic report (CCPR/C/64/Add.7) that expulsion could be ordered exclusively by the court. However, under article 13 of the Covenant, an alien threatened with expulsion in pursuance of a decision reached in accordance with law must be able to have his case reviewed by the competent authority. Could an appeal be made in Hungary against an expulsion decision before the measure was carried out, and, if so, to which authority?

36. As for protection of the right to privacy, paragraph 92 (b) of the report stated that the secret service could use special devices and methods to gather information, which obviously jeopardized protection of privacy. What exactly were those special devices? Later in the same paragraph it was stated that such devices could be used only to obtain "pertinent data which are deemed to be important to the interests of the State". How should that phrase be construed? The expression was very vague and could lead to arbitrary interpretations and therefore to violations of the right to protection of privacy. Furthermore, what remedies were available to an individual in the event of arbitrary interference with his privacy?

37. With regard to the implementation of article 22 of the Covenant, paragraph 111 of the report (CCPR/C/64/Add.7) said that the law prohibited establishment of organizations offending the Constitution. What exactly was meant by "offending the Constitution"? If a political party called for an amendment to the Constitution, would it be offending the Constitution, and should it therefore be prohibited by law?

38. Finally, he would like to know whether there was a law in Hungary governing the adoption of minors, and what rules were applicable in that area.

39. Miss CHANET said she would like to return to the question of the right for a Hungarian citizen to obtain a passport and travel abroad. The Hungarian delegation had stated that the system in force in 1987 had granted quasi-discretionary power to the administration to issue or deny a passport and that in 1989, a new law had been adopted defining the conditions for obtaining a passport and establishing the circumstances under which that right could be restricted. The delegation had mentioned a number of restrictions, but she would like some clarifications, for if several of those restrictions were actually applied, they might lead to the complete denial of the right to obtain a passport and travel abroad. She understood that the fact of being sentenced by a judge to a non-suspended prison term might provide grounds for the denial of a passport. However, passports could also apparently be denied in cases of criminal prosecution which could give rise to a sentence of more than three years' imprisonment. She did not know the scale of sentences in Hungary or the conditions under which the public right of action could be exercised. She noted, however, that in certain legal systems a provision of that nature would be quite excessive, for a relatively minor offence could make its perpetrator liable to a term of five years' imprisonment, and a civil claim might be filed. She would like to know the exact situation in Hungary in that respect. In particular, what was meant by "criminal prosecution"? Was criminal prosecution instituted by the prosecutor? And how did the authority that issued passports learn of such criminal prosecution? Finally, was there a formal decision that might be taken against the individual in question prohibiting him from leaving the country?

40. On a related matter, she wondered about the concept of State secrets. In certain countries neighbouring on Hungary that concept had sometimes been interpreted very broadly, to include scientific secrets in particular. As a result, certain scientists had been unable to leave their country because they possessed scientific secrets which the authorities considered to be in the interests of the State. She would like to know how the Hungarian authorities defined the concept of State secrets.

41. Mrs. EVATT said she was not clear whether the institution of a new system of identity numbers mentioned in paragraph 92 (d) of the report (CCPR/C/64/Add.7) was permanent or temporary in nature. Had the authorities adopted or were they planning to adopt measures aimed at ensuring that personal data held by the State would not be used for unauthorized purposes? Were there principles governing the collection, storage and use of such data?

42. With regard to article 18 of the Covenant, she had listened with great interest to the delegation's explanations on the registration of religious organizations. However, she still did not understand clearly why such organizations were required to register officially. If the authorities denied permission to register, what were the consequences? Was the organization concerned liable to a penalty, or did it simply not have access to a number of privileges?

43. Finally, concerning article 22 of the Covenant, it appeared that labour activities in Hungary were dominated by a very powerful trade union. Did the existence of that union in any way impede the effective operation of the new trade unions that had been formed? Were there many of the latter, and was everyone free to join them?

44. Mr. EL SHAFEI wondered about certain aspects of the implementation of article 18 of the Covenant in Hungary. He noted in that connection that the new general comment on article 18, on which the Committee was currently working, would doubtless be extremely useful to the Hungarian authorities.

45. That having been said, he shared Mrs. Evatt's concerns and would like further information on the contents of paragraph 95 of the periodic report (CCPR/C/64/Add.7). In particular, were religious organizations required to register or not?

46. Also in connection with article 18 of the Covenant, paragraph 100 of the report (CCPR/C/64/Add.7) stated that the Government had denounced the agreements concluded with certain churches and denominations in 1948 and 1950. Why had it done so?

47. It was indicated in paragraph 97 of the report (CCPR/C/64/Add.7) that under a new article of the Criminal Code, a person who violated freedom of conscience and religion by force or threats would be punished with imprisonment for a term of up to three years; it added that infringement of the constitutional rights of others was the only limitation on that freedom. He would like the delegation to cite a few examples of violation of the constitutional rights of others that had led to the restriction of freedom of conscience and religion.

48. Finally, he asked whether there were any regulations in Hungary governing conscientious objection.

49. Mr. DIMITRIJEVIC said that in all the countries in transition religious feeling was re-emerging among the population. As a result, the criteria of the dominant religion were often used in dealing with all issues relating to the freedoms protected by article 18 of the Covenant. In certain countries, for example, the media were now required to uphold Christian values, in others a sort of official religion status was being introduced, etc. He did not know the state of affairs in Hungary, and he would like to have information on that situation. Furthermore, he would like to know whether there was any form of censorship in the country. Were there any bodies imposing criteria relating to public morals on the media, in particular? If so, what were those bodies and what were their prerogatives?

50. As far as the implementation of article 19 of the Covenant was concerned, the countries that had recently abandoned socialism were experiencing a somewhat special situation. In Hungary, media such as television and radio still seemed to be controlled by the State. He would like to know to what extent the media in general were still State-owned in Hungary, and what was the proportion of foreign capital investment, if any. Finally, could any political view be expressed in the press in Hungary?

51. Mr. BÁRD (Hungary), replying first to questions by Mr. Dimitrijevic, said that no religious denomination had a privileged status in Hungary, and that the phenomenon to which Mr. Dimitrijevic had referred was not gaining ground in Hungary. There was in fact a return to Christian values generally speaking, but television and radio, for example, broadcast programmes for the followers of most religions existing in Hungary.

52. Regarding the ownership of the information media, the trend was naturally towards privatization, and the involvement of private capital in the press, for example, was far from negligible. However, he did not have precise data on the matter.

53. Regarding the question whether there was censorship in Hungary, the answer was no. There was, of course, the possibility of filing proceedings a posteriori in cases where, for example, a press organ had allegedly published an incitement to murder, which was an offence. There was no prior censorship of the media.

54. Regarding infringement of the constitutional rights of others, referred to in paragraph 97 of the report (CCPR/C/64/Add.7), the situation was quite clear. Anyone responsible for acts of violence or threats against freedom of conscience and religion was committing a criminal offence. In addition, there might be cases where the authorities could legitimately restrict freedom of conscience and religion, namely cases where the constitutional rights of an individual or a group were violated. In particular, there had been cases where religious sects had violated constitutional rights, such as personal freedom, which justified restrictions on their freedom of conscience and religion.

55. Replying to a question by Mr. Dimitrijevic concerning the denunciation of the agreements concluded between the Government and certain Churches in 1948 and 1950, he simply drew the attention of the members of the Committee to the dates, which clearly indicated what type of agreement had been involved.

56. Regarding the provisions referred to in paragraph 95 of the report, it should be added that a very important law had been adopted in 1992 with a view to ensuring the protection of personal data, and in particular data considered to be "special" under the law: that covered data concerning racial origin, nationality, ethnic origin, political opinions and membership in a party, and religious and other types of beliefs. That law contained some very strict provisions prohibiting the gathering and use of such "special" data. The next report would give details of the new law, which was requiring the legislature to amend many others.

57. Some members of the Committee had asked about the grounds for compulsory registration of religious organizations. As a legal person, a religious organization could have contractual activities and must therefore appear on a register. Furthermore, the State granted subsidies to religious organizations, especially their schools, and it had to know of their existence in order to distribute those funds.

58. To allay the concerns, understandable considering the previous regime, of those who feared that a single trade union would be dominant in Hungary, he indicated that elections to the social security bodies had recently been held, and that about a dozen trade unions had taken part.

59. Concerning the definition of "State secrets", the possession of which might be a ground for denial of a passport, the 1982 Act indicated that the term did not refer only to military secrets. In that sense, the Hungarian regulations were comparable to those of other countries of the region. The Act was being revised, and it was true that the meaning of "former members of the secret services" raised a problem. The difficulty for the Parliament was to find out what the contents of those files were and in which cases they could be revealed. He hoped that the new law would settle all those questions.

60. Concerning the provision according to which an individual could be denied a passport for committing a criminal offence subject to a three-year prison term, a thorough analysis of the scale of sentences applied by other countries would have to be made in order to determine whether that provision was excessive. In any event, according to the Hungarian scale of sentences, an offence carrying a three-year prison term was not a minor one; that having been said, he could accept the criticism that had been made of that provision.

61. Also concerning the right to leave the country, the restrictions contained in the new regulations of 1989 might certainly be open to criticism, but they still represented considerable progress, for they spelt out the grounds on which a passport might be denied. In addition, and most importantly, every decision was subject to appeal in the courts.

62. With regard to the right of peaceful assembly, the prohibition against establishing organizations "offending the Constitution and organs of the armed forces" (para. 111 of the report), which had been criticized, could only be explained with reference to the previous political regime. It was probably historical experience that had led the legislature to include that provision in the law on freedom of association. It should nevertheless be mentioned that the Hungarian word was much stronger than the word "offending" or the expression "portant atteinte" used in the French text.

63. Some members of the Committee had inquired about the provisions governing the adoption of minors. Naturally, the conditions for adoption were set forth in the Family Code, which dated back to 1952. Hungary's ratification of the Convention on the Rights of the Child made it necessary for the legislature to make several amendments to that law, which was quite old.

64. The conditions for expelling an alien needed to be explained. Expulsion could be ordered by a court against an individual who had committed a criminal offence; it represented a sentence additional to the main sentence (imprisonment, fine, community service). Expulsion could also be ordered by the administrative authority, and it had to be acknowledged that the conditions for exercising that power were not spelt out very clearly, since it was possible to expel an individual who represented a danger to State interests. Despite its somewhat vague wording, that clause seemed acceptable, especially as the administrative authority's decision could be reviewed by

a court. It was no doubt difficult in all countries to explain certain concepts such as "State interests", which was why it was essential to have carefully drafted rules of procedure. He hoped that the new law on the police and the functioning of the national security forces, which should grant the courts the power to decide, would provide the needed protection.

65. In the field of labour rights, a form of discrimination had been pointed out in the Labour Code, which provided for priority to be given to certain categories of persons for certain posts. That was in fact affirmative action, and a single example would convince the Committee: quite recently, the Parliament had enacted a law under which members of minorities living in the region must be given priority in filling certain local government posts.

66. The legal provisions governing the right to strike, which prohibited members of the administration of justice, the armed forces and the peace-keeping bodies from exercising that right, might be more liberal, but they did not appear to be especially unacceptable.

67. The prohibition against campaigning in the workplace should be understood in terms of the situation in the country when the Communist Party had had units in the workplaces. Organizations were not entitled to campaign in workplaces, but individuals were perfectly free to do so, although of course outside working hours.

68. Regarding the criminal proceedings brought against a Hungarian newspaper for incitement to racial hatred, the newspaper had in fact been charged, but the case had not yet been tried. The texts governing incitement to hatred had been amended following a decision by the Constitutional Court annulling the provision of the Criminal Code qualifying as criminal offences slanderous statements and statements against persons belonging to a particular nationality or group. The Court had found that, although the qualification of criminal offence was justified in cases of incitement to hatred, slanderous or stupid remarks against a particular group should not fall within the purview of criminal law but of a dialogue between communities. The legislature had therefore retained as a criminal offence incitement, which had been developed to become "incitement against the community".

69. He believed he had replied to all the questions raised by the members of the Committee.

70. The CHAIRMAN noted that the Committee had completed its consideration of the third periodic report of Hungary, and invited the members to make their concluding observations.

71. Mr. HERNDL thanked the Hungarian delegation for its detailed explanations, which were all the more useful because the situation in Hungary was changing rapidly. There was no doubt that Hungary's next report would describe all the changes that had been made in the legislation and the practical measures taken to implement them.

72. He suggested that the general reservation made by Hungary when it had ratified the Covenant should be withdrawn, unless the new Government saw fit to maintain it for historical reasons.

73. Since Hungary had ratified the Optional Protocol to the Covenant, it was important to ensure that the population in general and legal circles in particular were aware of that instrument and the procedures it established. Human rights education should begin in primary school and be covered by specific courses in the universities, and, of course, in the law faculties. Finally, a special effort should focus on law-enforcement personnel.

74. Miss CHANET said that the abundant information given orally and the obvious desire to correct the omissions of a written report that was a little too theoretical and at times terse had made the consideration of Hungary's report particularly constructive.

75. There had been some very positive points, especially the considerable legislative work, which was commensurate with the change that had taken place. She welcomed the reforms aimed at granting the Covenant a more important position and strengthening Hungary's commitments.

76. While the provisions of the Constitution concerning the state of emergency were in keeping with article 4, paragraph 2, of the Covenant, they were not in conformity with paragraph 1, or, especially, with the rule of proportionality. The delegation had assured the Committee that the introduction of that essential rule into the legal order was envisaged, and she had taken note of that fact.

77. The Hungarian delegation had not contested the need to give constitutional status to certain provisions of the Covenant which currently had only legislative rank. Every State party had to implement the provisions of the Covenant in their entirety, without adding limitations that it did not contain.

78. If Hungary had some difficulty with articles 5 and 6 of the European Convention on Human Rights, it was natural for it also to have difficulties with articles 9 and 14 of the Covenant, which were their equivalent. She still considered a five-day maximum for custody and a 10 per cent pre-trial detention rate excessive.

79. Given that Hungary had not made any reservations regarding article 14 of the Covenant, that provision applied to Hungary in its entirety, and Hungary should in particular ensure that all the judicial guarantees set forth in paragraph 3 were enforced.

80. Although she acknowledged that definite progress had been made in the exercise of the right to leave the country, there were still too many limitations, and the concept of "State secrets" opened the way for abuses; that having been said, the possibility of lodging an appeal was an excellent development.

81. Mr. EL SHAFEI thanked the Hungarian delegation, and especially Mr. Bárd, for its full and detailed replies to the questions of the members of the Committee. The dialogue had made it clear that Hungary was definitely engaged in a process of reforming its legislation and had taken the measures needed to adapt its legal system to the political, social and economic changes that had occurred in the country.

82. Regarding possible conflicts between the provisions of domestic legislation and the international obligations which Hungary had assumed, it had apparently been decided to refer such situations to the Constitutional Court, rather than to a parliamentary commission, as in most countries. The Hungarian authorities should therefore look into the risk that the procedure might be unduly protracted and that the Parliament might not respect the decisions of the Constitutional Court.

83. Furthermore, the Committee had not been able to examine in detail the provisions of the new Labour Code, which might in certain respects be discriminatory, and thus at variance with the provisions of articles 2 and 26 of the Covenant. A dialogue had no doubt begun on that subject between the Hungarian Government and the ILO, and the Committee should be informed of any changes made to the Labour Code in force. In any event, he was not unaware that the introduction of a new legislative system could not immediately lead to the implementation of laws that were perfect in every way.

84. Mrs. EVATT welcomed the exchange of views between the Hungarian delegation and the Committee, which had been able to examine the situation in detail despite the little time available. Certain questions, however, remained pending, especially regarding human rights teaching in the schools, the role of non-governmental organizations, the ranking order among the national Constitution, the Covenant and domestic legislation, regulations relating to custody, the requirements for the issue of passports, equality between men and women in participation in politics, and violence due to ethnic antagonisms. She hoped that Hungary's fourth periodic report would contain specific information on the results of the changes already made in the national legislation.

85. Mr. MAVROMMATIS said that he was fully satisfied with the quality of the dialogue that had been established between the Committee and the Hungarian delegation, which he wished to thank warmly. It had been demonstrated to the Committee that the Hungarian Government had the political will to continue in an organized way the transition process that had begun in the country. Obviously, some time would be needed to assess the results of the measures already applied and to introduce new provisions, especially with a view to changing the attitudes inherited from the previous regimes. The Committee therefore awaited Hungary's next periodic report with interest.

86. Mr. FRANCIS said that the consideration of the third periodic report of Hungary indicated that the dialogue that had been taking place between the Committee and the State party for several years would continue to be useful and productive. The legal framework that Hungary had established appeared to be conducive to the implementation of the rights set forth in the Covenant. It remained to be seen, however, to what extent the Hungarian Constitutional Court would find that there was a conflict between the provisions of domestic law and Hungary's obligations under international instruments, in particular the Covenant.

87. Mr. DIMITRIJEVIC expressed gratitude to the Hungarian delegation for its frank treatment of the problems arising in the period of transition that Hungary was currently experiencing. He hoped that in its next report the

Hungarian Government would describe the results obtained as a result of the establishment of the post of ombudsman for civil rights and the implementation of the new law on the rights of national and ethnic minorities. He also hoped that the problems of compatibility between the provisions of international instruments and those of domestic legislation would have been resolved and that the Hungarian authorities would have adopted a consistent attitude in that respect.

88. Mr. WENNERGREN said that he also wished to thank the Hungarian delegation for its clear replies to the often complex questions raised by the members of the Committee. Although the reform process was still taking place in the country, the authorities were generally on the way to democracy, and that was cause for satisfaction. In addition to the points left pending, he would like the Hungarian Government to explain in its fourth periodic report whether a special procedure had been established to enable individuals to lodge appeals with the courts against administrative decisions. That was particularly important in his view, for human rights questions were often involved in cases that were the subject of administrative decisions.

89. Mr. PRADO VALLEJO expressed appreciation for the extremely constructive dialogue that had begun with the Hungarian delegation and the progress made towards respect for human rights in Hungary. He would particularly like to know, when the Committee came to consider Hungary's fourth periodic report, to what extent the members of political parties, who were undoubtedly committed to the principles of democracy, had been allowed to hold posts in the administration, and whether progress had been made in controlling police powers and combating xenophobia.

90. Mr. AGUILAR URBINA said that he was fully satisfied with the dialogue that had taken place during the Committee's consideration of the third periodic report of Hungary, which had provided an opportunity to note the progress made in Hungary in ensuring respect for the rights set forth in the Covenant. Gaps still existed, of course, in particular regarding the provisions of the Labour Code, but he had no doubt that the necessary measures would be taken rapidly to fill them.

91. The CHAIRMAN joined all the members of the Committee in thanking the Hungarian delegation for taking part in the exchange of views with the Committee. The dialogue had shown that, despite certain imperfections owing to the transitional situation Hungary was experiencing, the country had made considerable progress towards enforcing international standards.

92. The Hungarian delegation would be duly informed of the Committee's final comments when it adopted them. He hoped that the dialogue would continue in a spirit of cooperation, since the Committee's general goal was to remedy, to the extent possible, any inadequacies that might come to light during the consideration of periodic reports of States parties.

93. Mr. BÁRD (Hungary) thanked the members of the Committee for the interest they had shown in Hungary's problems and for drawing his delegation's attention to certain questions that it had come to see in a new light.

The dialogue had been extremely constructive, and his delegation would not fail to bring all the comments made by members of the Committee during the consideration of the report to the attention of the competent authorities.

94. The CHAIRMAN said that the Committee had concluded its consideration of the third periodic report of Hungary and that the fourth periodic report was due on 2 August 1995.

95. Mr. Bárd, Mr. Höltzl, Mr. Lontai, Mr. Szapora and Mrs. Hevesi (Hungary) withdrew.

The meeting rose at 1 p.m.